

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION

STATE OF MONTANA

* * * * *

Aaron Stansberry,)	
Appellant)	FINDINGS OF FACT,
)	
vs.)	CONCLUSIONS OF LAW & ORDER
)	
Trustees of Roosevelt)	OSPI 57-83
County High School District)	
#45A,)	
Respondents)	

* * * * *

This matter was noticed, briefed, and heard before the State Superintendent on December 16, 1983. After that argument this matter was deemed submitted for decision and I, after reviewing the briefs and files in this matter, now make these:

FINDINGS OF FACT

1. The appellant, Aaron Stansberry, was a tenured teacher in Wolf Point High School District #45A. He had taught there seven years prior to the 1982-83 school year.

2. Respondents are the duly elected trustees of High School District #45A in Wolf Point, Montana.

3. Appellant applied for sabbatical leave on October 18, 1981. His letter of application stated "If this application is accepted I intend to pursue either an MA or an MFA degree in English, concentrating in Creative Writing."

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4. The school board approved this request for sabbatical and notified Appellant on December 15, 1981. There is substantial, credible evidence in the record to support a finding that the school board relied on the Appellant's letter of October 18, 1981 in granting him a sabbatical leave.

5. The Respondent School Board has a policy authorizing sabbatical leave.

6. On May 18, Appellant met with the District Superintendent regarding the sabbatical.

7. Following that meeting on June 18, 1982, Mr. Robert G. Kinna, District Superintendent, replied in writing to Appellant concerning the benefits available to him. There was no indication in that letter of any change in Appellant's plans for his sabbatical.

8. There is substantial, credible evidence in the record to support the County Superintendent's determination that Appellant did not indicate to the School District until March 14, 1983, that he was not attending graduate school and pursuing the goals of his written application for sabbatical.

9. By letter dated August 18, 1982, Appellant advised the District Superintendent in writing that he had not attended the University during the summer of 1982.

10. By letter dated February 24, 1983, the District Superintendent requested from Appellant documentation of what he did during his sabbatical leave.

11. By letter dated March 11, 1983, Appellant advised District Superintendent Kinna that he had moved to Helena but did not attend classes at Carroll College because of his financial situation, that he worked at a variety of jobs, that he had traveled, that he did intend to take several classes before returning to the school in Wolf Point.

12. School District 45A at its meeting on March 14, 1983, voted unanimously to terminate Appellant's services for the 1983-84 school year and advised Appellant of such action in writing by letter dated March 15, 1983.

13. Appellant requested reasons pursuant to Section 20-4-204, MCA, and they were supplied by the School District in a letter dated March 23, 1983.

14. Appellant requested a hearing before the Board of Trustees which was held on April 11, 1983, where the Board voted to reaffirm its decision. Appellant was present at that hearing with a representative and gave evidence and testimony.

15. The School District followed all procedural requirements necessary to terminate a tenured teacher.

16. Appellant enrolled for six credits at the University of Montana during fall quarter 1982 and that appears to be the only organized course of study undertaken by Appellant during his period of sabbatical leave.

17. The reasons submitted by the School District are supported by the record before the County Superintendent and indicate that the action of the School District was for vio-

lation of its policies.

18. The reasons supplied by the District Superintendent to Appellant were as follows:

1. Violation of a professional policies agreement, Section #5575.8, Subsection B. Six credits in a non-degree program do not constitute full-time study.
2. There was no intention of pursuing an MA or MFA into a graduate program for these degrees during the 1982-83 school year. Mr. Stansberry apparently made no financial provision to pursue schooling as indicated in his letter.
3. Mr. Stansberry states that he has worked as a tutor, salesman and public relations person during the past several months and has not been enrolled in school.
4. The school board has acted in good faith, in carrying a tremendous financial burden for the completion of the MA or MFA degree, only to have this trust completely broken by Mr. Stansberry.

5. The statement of reason for the sabbatical leave was in no way honored by Appellant.

19. The appeal of Appellant from the decision of the Wolf Point Board of Trustees was heard by the County Superintendent on July 26, 1983 and he issued his decision on August 16, 1983.

20. The Appellant appealed that decision to my office on the 12th day of September, 1983.

From the foregoing Findings of Fact, the State Superintendent now draws these:

CONCLUSIONS OF LAW

1. That the State Superintendent has jurisdiction in this Appeal pursuant to 20-4-204 MCA, 20-3-210 MCA, and the Rules of School Controversy ARM 10.6.125.

2. That Appellant violated Wolf Point School Board policy on sabbatical leaves when he did not pursue his sabbatical as outlined in his letter of October 18, 1981.

3. That Appellant violated Wolf Point School Board policy on sabbatical leave when he did not notify the School Board of his change in plans and goals for his sabbatical leave.

4. That the Wolf Point School Board did in fact rely on Appellant's letter of October 18, 1981 when it granted him a sabbatical leave.

5. That in view of the substantial benefits accorded the Appellant by the School Board through its sabbatical policy and Appellant's written application for a sabbatical to pursue specific goals, Appellant had an affirmative duty to notify the School Board of his change in plans as soon as they became apparent.

6. That 20-4-207 MCA, provides that a district may dismiss a teacher before expiration of his employment contract for violation of the adopted policies of such trustees.

7. That the School District followed all procedural requirements necessary to terminate a tenured teacher.

8. That the reasons submitted by the School District for termination of Appellant were supported by the record and indicated School Board policy on sabbatical leave. There was good and just cause for his termination.

9. That adoption of the School Board's proposed Findings of Fact and Conclusions of Law by the County Superintendent does not require reversal in this instance.

10. That the termination of Appellant by the Wolf Point High School District #45A was proper and the affirmation of its decision by the County Superintendent of Roosevelt County should be ordered.

From the foregoing Findings of Fact and Conclusions of Law, the State Superintendent enters his:

ORDER

The decision of the Roosevelt County Superintendent of Schools dated August 16, 1983, which affirmed the termination of Appellant was a lawful exercise of the School Board's authority and is supported by the record before the County Superintendent.

Therefore, the decision of the Roosevelt County Superintendent of Schools, Harry L. Axtmann, be and is hereby affirmed.

DATED this _____ day of April, 1984.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
STATE OF MONTANA

MARILYN PARKER,)	
Appellant)	
)	
vs.)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW
)	AND ORDER/
BOARD OF TRUSTEES,)	
YELLOWSTONE COUNTY ELEMENTARY)	
SCHOOL DISTRICT 7-70,)	
Respondent.)	

* * * * *

This matter arises from a notice of appeal by Appellant through her attorney filed on August 24, 1983, from the Findings of Facts, Conclusions of Law and Order, rendered July 19, 1983, by Flathead County Superintendent of Schools Wallace D. Vinnedge, sitting on behalf of H.C. (Buzz) Christianson, Yellowstone County Superintendent of Schools.

Both parties have submitted briefs in support of their positions and have presented oral argument before this State Superintendent. This State Superintendent, now being fully informed as to the record, briefs and matters contained therein and the law, makes these:

FINDINGS OF FACT

1. The Appellant, by and through her attorneys, Hilley and Loring, filed a notice of appeal with this State Superintendent, appealing a decision dated July 19, 1983 of the Findings of Fact, Conclusions of Law and